



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Planning Commission
From: Department of Community Development
Date: April 13, 2022 (Regular Meeting)
Re: Special Use Permit – 716 and 722 Foley Road (Section 10-3-48.4(3) to Allow a Reduction in Required Parking Areas)

Summary:

Public hearing to consider a request from Devon Lane LLC for a special use permit per Section 10-3-48.4(3) of the Zoning Ordinance within the R-3, Medium Density Residential District to allow reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the City Council, it is needed at some time in the future. The +/- 1.06-acre area consists of two parcels addressed as 716 and 722 Foley Road and are identified as tax map parcels 84-B-15 & 16, respectively.

Background:

In 2021, Planning Commission (PC) recommended approval (6-0; Baugh recused) and City Council (CC) approved (5-0) the applicant's request for a special use permit (SUP) per Section 10-3-48.4 (6) of the Zoning Ordinance (ZO) to allow multiple-family dwellings of up to 12 units per building on the subject property. The following conditions were approved with the SUP:

1. All newly constructed multiple-family units shall be efficiency, or one- or two-bedroom units.
2. Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall dedicate necessary public street right-of-way to encompass curb and gutter plus 0.5-ft., and deed a public sidewalk easement to include the remainder of the two foot wide grass strip, a five foot wide sidewalk, and 0.5-ft behind the sidewalk. The future curb and gutter location shall be equidistant from the street centerline similar to what exists across the street.
3. The entrance at Foley Road to serve multiple-family building(s) on the site shall be no greater than 30 feet wide.
4. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

The December 14, 2021 CC minutes, including agenda packets and the extract of minutes from the November 10, 2021 PC meeting, is available at: <https://harrisonburg-va.legistar.com/Calendar.aspx>.

The Comprehensive Plan designates this site as Medium Density Residential. These areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

The following land uses are located on and adjacent to the property:

Site: Single-family detached dwellings; zoned R-3

North: Across Foley Road, single-family detached and duplex dwellings; zoned R-3

East: Single-family detached dwelling; zoned R-3

South: Single-family detached, duplex, and multiple-family dwellings; zoned R-3

West: Single-family dwelling; zoned R-3

Key Issues:

The applicant is requesting a special use permit (SUP) per Section 10-3-48.4 (3) of the Zoning Ordinance (ZO) to allow reducing required parking areas to permit fewer than the required number of vehicle parking spaces, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the City Council (CC), it is needed at some time in the future. This request is associated with the applicant's plans to keep two existing single-family detached dwellings on the property, to vacate the property line between the two parcels, and then to add a three-story multiple-family building consisting of 11 efficiency dwellings. As part of the SUP request, the applicant is requesting approval be granted for three years from the date of approval.

Given that the applicant plans to maintain the two existing single-family detached dwellings, the R-3 district requires 12,000 square feet of lot area be allotted to those two units (6,000 square feet per single family detached dwelling), which then leaves enough square footage to construct up to 11 multi-family units. With regard to required off-street parking, one parking space shall be provided for each single-family detached dwelling. Per Section 10-3-25 (7) of the ZO the parking requirements for multi-family dwellings in R-3 includes:

- 1.5 spaces for each dwelling unit with one bedroom
- 2.5 spaces for each dwelling unit with two or three bedrooms
- 3.5 spaces for each dwelling unit with four or more bedrooms

If all 11 multi-family dwellings contain no more than one bedroom, then 17 off-street parking spaces would be required per the ZO. However, if all 11 multi-family dwellings contained two-bedrooms (the maximum number of bedrooms allowed per the 2021-approved SUP), then 28 off-street parking spaces would be required. At this time, the applicant plans to construct 11 efficiency or one-bedroom dwelling units. The SUP requested herein is to essentially allow the property owner to provide only one parking space per efficiency or one-bedroom multi-family unit rather than to provide the ZO's typical 1.5 parking spaces per unit.

The applicant describes in their letter that they have not yet retained a professional engineer for the project. However, the applicant has provided a photo mockup showing where 17 off-street parking spaces could be located on the property and has provided a letter from a professional engineer, who,

among other things, stated they believe that there is sufficient land to build 17 parking spaces. The applicant is aware that the Building Code requires handicap accessible parking spaces and access aisles be provided for apartments (multi-family dwellings) and that a submitted site plan for the new construction will need to show the reserved open space area for parking if CC determines it is required. The applicant also understands that, if the SUP is approved, the area that would have been used for parking must be recorded in a deed, must remain as open space, and shall not be used to meet any conflicting requirements of the ZO.

During the 2021 SUP review, which allows for the planned multi-family units on the subject property, some might recall the following issues being discussed: the dedication of right-of-way, the deeding of a public sidewalk easement, and the construction of sidewalk and frontage improvements. At that time, City staff recommended a condition which, among other things, would have required the property owner to construct sidewalks along the property's frontage. The condition did not require full street widening improvements such as curb and gutter.

However, PC disagreed with staff's recommendation and instead recommended the following condition that was ultimately approved by CC, which does not require sidewalk construction:

“Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall dedicate necessary public street right-of-way to encompass curb and gutter plus 0.5-ft., and deed a public sidewalk easement to include the remainder of the two foot wide grass strip, a five foot wide sidewalk, and 0.5-ft behind the sidewalk. The future curb and gutter location shall be equidistant from the street centerline similar to what exists across the street.”

While staff understands that CC approved the SUP without the condition to require sidewalk construction by the property owner, staff believes that this topic should be revisited because some tenants might not have vehicles. Earlier this year the property owner was selected to receive \$350,000 of gap funding from the Central Shenandoah Planning District Commission (CSPDC) so that the subject multi-family project could provide income controlled affordable housing units. According to the CSPDC, at this time the contract has not been officially finalized, however, the plan is for this project to provide affordable housing units up to 60% area median income for a 20-year period. In knowing this detail of the project, it likely increases the potential that individuals that reside within the units might not have a vehicle and might rely on public transportation, and therefore sidewalk construction is essential for the residents. Residents without vehicles will have limited transportation choices and access to public transit may be their best option, provided they feel comfortable walking to the nearest bus stop. City bus Route 2 has a southbound bus stop that would transport people from the nearest bus stop to Sentara RMH in under 10 minutes. In addition, City Route 1 has a northbound bus stop on the other side of Reservoir Street that could get people to the Valley Mall in under 10 minutes with bus stops not much further at several other commercial and employment centers. (Note that there is no crosswalk at the intersection of Reservoir Street and Foley Road and that people will need to walk across four lanes of traffic to reach the northbound side of Reservoir Street.)

While a 200-foot long segment of sidewalk along the front of the subject property may appear negligible compared to the overall need for sidewalks on Foley Road, the City has a large backlog of sidewalk construction needs all across the City because sidewalk construction was not required years ago when streets were being constructed in the City or the City acquired streets without sidewalks during annexation. When public funding is available, the City has used those funds to retrofit legacy development. In general, staff believes it is not responsible to allow larger-scale housing to be constructed without sidewalk when residents will be walking in the street because they have no other

choice than to walk. Sidewalks are an essential service for people who do not have cars. Therefore, staff recommends a condition with this SUP to require the construction of sidewalks.

Staff believes that the SUP to reduce parking shall only be applicable for efficiency and one-bedroom multi-family units up to a total of 11 units, which is what the plan is for the subject property. In conclusion, the requested SUP is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district. Staff recommends approval of the special use permit to allow a reduction in the required parking areas on the subject property only with the following conditions:

1. Reduction in required parking shall only be permitted for efficiency or one-bedroom multi-family units up to a total of 11 such units, where one parking space per unit may be provided.
2. Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall construct a five-foot wide public sidewalk along the entire length of the property frontage. The sidewalk may be located within dedicated public street right-of-way or within a deeded public sidewalk easement so long as 0.5 feet of right-of-way or easement area is provided beyond the width of the sidewalk infrastructure. Furthermore, the property owner shall be responsible for engineering design to ensure that the sidewalk is constructed at the appropriate grade and location for future construction of curb and gutter and any other street widening by the City.
3. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within three years from the approval date of the special use permit.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the special use permit request as submitted;
- (b) Recommend approval of the special use permit request with suggested conditions;
- (c) Recommend approval of the special use permit with other conditions(s); or
- (d) Recommend denial.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing. The advertisement was published as shown below:

Special Use Permit – 716 and 722 Foley Road (Section 10-3-48.4(3) to Allow a Reduction in Required Parking Areas)

Public hearing to consider a request from Devon Lane LLC for a special use permit per Section 10-3-48.4(3) of the Zoning Ordinance within the R-3, Medium Density Residential District to allow reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the City Council, it is needed at some time in the future. The +/- 1.06-acre area consists of two parcels addressed as 716 and 722 Foley Road and are identified as tax map parcels 84-B-15 & 16, respectively.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends alternative (b) to approve the special use permit with the suggested conditions.

Attachments:

1. Site maps
2. Application and supporting documents

Review:

N/A